

**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224**

FILE

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Release copies to District
Date [REDACTED]
Surname [REDACTED]

Date: JUN 02 2000

Contact Person: [REDACTED]

ID Number: [REDACTED]

Telephone Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

Transplanted ice hockey enthusiasts, who gathered for the fun and exercise, of playing the game, founded the [REDACTED]. As you (the [REDACTED] team) grew, you played exhibition games against teams from across the country and from around the world. Opponents have included the United States Olympic team, the Chinese Olympic team, and an U.S.S.R. Level II National team. You have also played against the National Hockey League Old Timer's teams, the United States National Team, the Hollywood Celebrity All-Star Team and amateur clubs from [REDACTED] to [REDACTED] to [REDACTED].

Most of your members have prior professional, college, or international experience. All members are qualified "USA Hockey" amateurs. They are aged 21-36 and have a variety of experience. Team members are not compensated for playing. To receive support from the club, team members are required to volunteer for the local youth hockey program or participate in fund-raising and youth hockey scholarship programs sponsored by the [REDACTED].

Over the past three years you have designated Saturday night home games as benefit games for local organizations. A portion of all gate proceeds are donated to groups ranging from the local elementary school PTO's, to the local Boy and Girl Scout Troops, to other youth athletic groups. You have raised over \$10,000 for their causes. In addition, your members man an aid station at the Boulder Mountain Tour Cross-Country Ski Race.

As a for-profit organization, you charged for admission to your home games. In addition, you charged for advertising in game programs and in [REDACTED] magazine. You intend to continue charging for admission and advertising.

While you engage(d) in volunteer activities, your primary activity has remained the operation of the [REDACTED] team. You plan to continue to provide recreation for your members and entertainment for the public. You stated "unlike the other organizations whose games are recreational and could best be likened to 'playground' or 'sandlot' activity, the [REDACTED] games would best be considered

[REDACTED]

entertainment drawing a paying audience of tourist and local people. This necessitates a different level of preparation and planning the other groups face."

Your founder currently oversees your daily operations. You stated [in the future] "The players run the Sun's organization with an emphasis on seniority. As a non-profit corporation a Board of Directors consisting of former and current [REDACTED] will be formed to oversee the organization. But day-to-day function of scheduling, running clinics, selling advertising in the yearbook, etc., is the responsibility of the players and coach."

In your letter dated [REDACTED], you stated "We do not agree with the finding that the [REDACTED] does not qualify as a section 501(c)(3) organization. This organization was organized to promote and operate an amateur hockey team."

There are four rationales for finding an amateur athletic organization qualifies for exemption under section 501(c)(3) of the Code. An organization may be considered educational and provide instruction regarding the sport. It may be considered charitable on the grounds that it combats juvenile delinquency. It may be an organization fostering national or international sports competition. Or it may be a qualified amateur organization described in section 501(j), which is supporting and developing amateur athletes for national or international competition in sports. Each rationale presents a separate and distinct ground for exemption under section 501(c)(3). However, all four grounds are still subject to the general restrictions imposed on section 501(c)(3) organizations and must be operating exclusively for charitable purposes.

An organization can be considered educational and providing instruction in a sport if it teaches the sport to children or if it teaches the sport to adults, without sponsoring adult competition in the sport. Rev. Rul. 70-4, 1970-1 C.B. 126, determined providing instruction in a sport to children, regardless of whether the organization is sponsoring competition in the sport, is an exempt activity. Rev. Rul. 77-365, 1977-2 C.B. 192, holds providing instruction in a sport to persons of any age is an exempt activity under 501(c)(3) provided the organization does not sponsor competition in the sport. Rev. Rul. 70-4 holds an organization which conducts competition and which has a non-regular program of instruction in a sport was not an educational organization, but was exempt as a social organization under 501(c)(4). (See also Rev. Rul. 67-291, 1967-2 C.B. 184; Rev. Rul. 65-2, 1965-1 C.B. 227; Rev. Rul. 64-275, 1964-2 C.B. 142; Rev. Rul. 59-310, 1959-2 C.B. 146; Rev. Rul. 55-587, 1955-2 C.B. 261).

You have contended operating an adult hockey team is an educational activity. The record indicates that while you provide the members with coaching, you do not provide the members with a program of instruction. Your members do provide instruction to others in the form of youth clinics and the senior league. Although some of your members are college-aged, the average age of a team member is twenty-eight. The evidence of record indicates you sponsor competition in the sport of hockey. We have therefore determined your primary activity, operating an ice hockey team, is not educational.

IRC 501(c)(3) provides for the exemption of athletic organizations under IRC 501(a) of organizations, which are organized and operated exclusively "to foster national and international sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment)." In International E22 Class Association v. Comm'r, 78 T.C. 93(1982) the court held the term "athletic facilities" refers to physical structures such as clubhouses, swimming pools, and gymnasiums. You provide members with an arena to practice and play games. Therefore you do not qualify for exemption as an amateur athletic organization under 501(c)(3).

IRC 501(j) does not have the prohibition against the provision of athletic facilities or equipment. IRC 501(j)(2) states:

Qualified amateur sports organization defined — For purposes of the subsection, the term "qualified amateur sports organization organized and operated exclusively to foster national or international competition in sports or to support and develop amateur athletes for national or international competition in such sports.

The record indicates you began the league for the recreation of your members. Although the team plays exhibition games against national and international hockey teams, it does not foster national or international competition as intended by Congress. You continue to operate for the recreation of members and the entertainment of your community. Neither the record nor your statements support a finding that you are supporting and developing amateur athletes for national and international competition in sports.

You contend training hockey players is an exempt activity because it is educational within the meaning of section 501(c)(3) of the Code. You cited Hutchinson Baseball Enterprises, Inc. V. Comm'r IRS. You stated "This case states that training baseball players is an educational activity. Therefore training hockey players would also be an educational activity. This case also states that 'This legislative history indicates that Congress has long considered amateur athletics to fall within the penumbra of section 501(c)(3).' It also states that 'the furtherance of recreational and amateur sports, falls within the broad outline of 'charity' and should so be classified.'"

In Media Sports League, T.C. Memo 1986-568 the court cited Hutchinson for the principle that "promotion, sponsorship, and advancement of amateur and recreational sports is a charitable purpose within the meaning of 501(c)(3)," and found that "the furtherance of amateur athletics is one of petitioners goals." The Court distinguished Hutchinson, however, on the grounds that Media Sports had the Social and recreational interests of its members as a substantial purpose. The court found such purpose to be nonexempt and consequently, upheld the Service's denial of exemption to the petitioner.

Under Reg. 1.501(c)(3)-1(c)(1), an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities do not further an exempt purpose. In Copyright Clearance v. Commissioner 79 T.C. 793 (1982) at pp. 803-04, "Although an organization might be engaged in single activity, such activity may be directed toward multiple purposes, both exempt and nonexempt. But in the case of multiple purposes it must be kept in mind that qualification for exemption depends upon whether the entity in question is organized and operated 'exclusively' for one or more exempt purposes."

We have determined you have as a substantial purpose the recreation of team members. You also have as a substantial purpose the entertainment of the Sun Valley public.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not

[REDACTED]

one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
[REDACTED] T:EO:RA:T:2, Rm. 6539
1111 Constitution Ave, N.W.
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,
(signed) Garland A. Carter

Garland A. Carter
Manager, Exempt Organizations
Technical Group 2

[REDACTED]